Corporate Tax - Cyprus

Further step towards ratification of Cyprus-Spain double tax agreement

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The double tax agreement between Cyprus and Spain, which was signed in Nicosia on February 14 2013, has moved another step closer to ratification. On August 2 2013 the Spanish Cabinet approved the agreement and forwarded it to the Spanish Parliament for consideration. The new agreement follows the latest Organisation for Economic Cooperation and Development (OECD) Model Tax Convention and applies to taxes on capital and income. It will enter into force three months after the two countries have exchanged formal notifications that their respective domestic ratification procedures have been completed, and will apply to the tax year beginning on the following January 1 and subsequent tax years.

The agreement provides for a maximum withholding tax rate of 5% on dividends, provided that the beneficial owner is a resident of the other contracting state. Dividends paid by a company resident in one state to a company resident in the other state are exempt from withholding tax, provided that the recipient company's capital is wholly or partly divided into shares and provided that it holds directly at least 10% of the capital of the company paying the dividends.

Interest and royalties paid by a resident of one contracting state to another are taxable only in the state of residence of the recipient, provided that the recipient is the beneficial owner.

Capital gains on disposals of immovable property and on unlisted shares in companies deriving more than 50% of their value from immovable property may be taxed in the country in which the immovable property is situated. Gains on disposals of ships and aircraft engaged in international traffic are taxable only in the country in which the place of effective management of the enterprise is situated. Other gains are taxable only in the country in which the alienator is resident. As Cyprus does not impose tax on such gains, this gives rise to tax planning opportunities.

The exchange of information article reproduces the corresponding article of the OECD Model Convention verbatim. Cyprus's Assessment and Collection of Taxes Law provides robust safeguards against abuse of exchange of information provisions by:

- requiring requests for information to be adequately supported by evidence demonstrating the foreseeable relevance of the request;
- channelling all requests through a specialist unit and forbidding peer-to-peer information exchange by tax officials on the ground; and
- requiring the approval of the attorney general for the final release of information.

The protocol to the agreement introduces a measure to prevent treaty shopping or other abuse by providing that the agreement will not be interpreted to mean that a contracting state is prevented from applying its domestic legal provision on the prevention of tax evasion or tax avoidance.

Until 2009 Cyprus-resident companies were ineligible for certain Spanish tax benefits and exemptions as Cyprus was included in the Spanish authorities' blacklist of tax havens, despite complying with all relevant information exchange requirements. In 2009 the Spanish authorities removed the restrictions and progress in the negotiations regarding the double taxation agreement resumed. The conclusion of the recent agreement normalises tax relations between the two countries and has already led to a significant expansion of economic ties and reciprocal investment between them.

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